

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
October 15, 2013

In the Matter of K. WRIGHT, Minor.

No. 315442
Berrien Circuit Court
Family Division
LC No. 2011-000090-NA

Before: MURRAY, P.J., and DONOFRIO and BORRELLO, JJ.

PER CURIAM.

Respondent mother appeals as of right the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist) and (g) (failure to provide proper care or custody). Because clear and convincing evidence supported the statutory bases for termination, and termination of respondent's parental rights was in the child's best interests, we affirm.

We review for clear error the trial court's determination whether clear and convincing evidence established the statutory grounds for termination. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Regarding MCL 712A.19b(3)(c)(i), substance abuse was a condition that led to adjudication. During the approximately 16 months that this case was pending, respondent was offered substance abuse services, specifically a substance abuse assessment and drug screens. She did not complete the substance abuse assessment before the termination hearing despite being told it was necessary for reunification. She maintained that her failure to complete the substance abuse assessment was "not her fault." In addition, respondent rarely participated in drugs screens and had two positive screens. Nevertheless, she maintained that she did not have a substance abuse problem. Accordingly, the trial court did not clearly err by finding that respondent's substance abuse problem continued to exist and that there was no reasonable likelihood that it would be rectified within a reasonable time considering the child's age.¹ MCL 712A.19b(3)(c)(i); *In re Trejo Minors*, 462 Mich at 356-357.

¹ The trial court also appeared to consider emotional instability and poor decision making conditions of adjudication, but the record is unclear regarding whether those were conditions of adjudication. In any event, it is unnecessary to analyze those issues because substance abuse was clearly a condition of adjudication and termination was proper based on that factor.

Regarding MCL 712A.19b(3)(g), the trial court assumed jurisdiction following a drug raid in which respondent and the child were present in a drug house along with several others, including a man with whom respondent had recently been involved in a domestic violence incident and who had a no-contact order with respect to respondent. At that time, respondent was unemployed, was living in the drug house, had substance abuse issues, and was in a relationship that involved domestic violence. At the time of termination, respondent had still not resolved her substance abuse issues as previously discussed. Although she had participated in other services, including counseling, she had not resolved other barriers to reunification. She lived with her parents, whose home was not fit because both her parents were listed on the central registry. She had also not finished her education, was minimally employed, and was pregnant again.² Despite that her parents' home was unfit for a child, respondent planned to continue living there until she gave birth to her unborn child. There was no indication that respondent would be able to provide proper care and custody to the minor child at issue in this case within a reasonable time considering the child's age. Thus, the trial court did not clearly err by finding that respondent did not provide proper care and custody for the child and that there was no reasonable expectation that she would be able to do so within a reasonable time considering the child's age. MCL 712A.19b(3)(g); *In re Trejo Minors*, 462 Mich at 356-357.

Respondent also argues that termination of her parental rights was not in the child's best interests. The record shows, however, by a preponderance of the evidence, that termination was in the child's best interests. MCL 712A.19b(5); *In re Moss*, ___ Mich App ___; ___ NW2d ___ (2013), slip op at 6. A child's need for stability and permanency may be considered in determining best interests. See *In re VanDalen*, 293 Mich App 120, 141; 809 NW2d 412 (2011). Throughout the pendency of the case, respondent knew that her participation in services, particularly those concerning substance abuse, were crucial to reunification. Nonetheless, she did not participate in those services until the final stages of the proceeding. The child needed permanency and stability, which respondent was unable to provide. Although there was evidence that respondent had a bond with the child, that fact did not outweigh respondent's deficits and barriers to reunification. See *In re LE*, 278 Mich App 1, 29-30; 747 NW2d 883 (2008). Thus, the trial court did not clearly err when it determined that termination was in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich at 356-357.

Respondent also makes a cursory argument that her parents should have been considered for a guardianship but that a guardianship was not pursued because the trial court did not seek to have them removed from the central registry. We note that there was no evidence that a guardianship was requested or appropriate, and respondent points to no evidence and makes no

² Respondent testified that the man with whom she had previously been involved in the domestic violence incident could be the father of her unborn child.

argument that it was appropriate for the trial court to sua sponte seek to have respondent's parents removed from the central registry.

Affirmed.

/s/ Christopher M. Murray

/s/ Pat M. Donofrio

/s/ Stephen L. Borrello